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24 WYNN LAS VEGAS, LLC d/b/a WYNN LAS VEGAS

25 UNITED STATES DISTRICT COURT
26 DISTRICT OF NEVADA

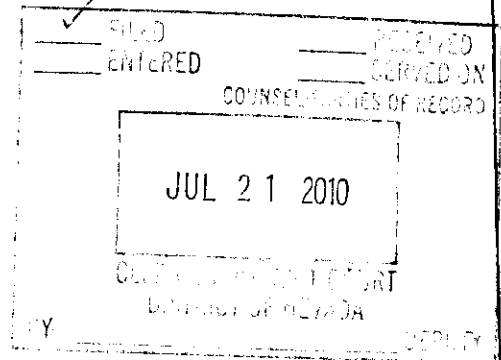
27 WYNN LAS VEGAS, LLC d/b/a WYNN
28 LAS VEGAS, a Nevada Limited Liability
Company,

Plaintiff,

v.

INTERNATIONAL BUSINESS
MACHINES CORP., a New York
Corporation, and MRO SOFTWARE, INC., a
Delaware Corporation,

Defendants.



Case No. 2:10-CV-00999-RCJ-LRL

**ORDER RE
VOLUNTARY DISMISSAL WITHOUT
PREJUDICE.**

JOINT STIPULATION OF DISMISSAL

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiff Wynn Las Vegas, LLC d/b/a Wynn Las Vegas ("Wynn") and named Defendants International Business Machines Corp. and MRO Software, Inc. (jointly "IBM")¹ hereby jointly stipulate that Wynn will voluntarily dismiss all claims in the above-entitled action without prejudice against IBM subject to the following terms:

WHEREAS, the purpose of this stipulation is to maintain the status quo while the parties explore settlement discussions during a 120-day cooling off period;

WHEREAS, Wynn and IBM desire to encourage resolution of any claims or counterclaims arising out of or related to the purchase, implementation, or use of MAXIMO software (any version) by Wynn (the "Maximo Issue"), and wish to avoid the expense and uncertainty of litigation relating to any such claims if possible;

WHEREAS, Wynn and IBM desire that for the period of this Stipulation, the parties should be able to consider issues relating to the possibility of settling any disputes without regard to the time constraints that may exist because of any future expiration of any applicable statute of limitations;

WHEREAS each party will act in good faith to dedicate appropriate decision-making personnel to the negotiations;

NOW THEREFORE, the Parties stipulate as follows:

1. Wynn and IBM, their predecessors, successors, parents, subsidiaries, divisions, affiliates, assigns, agents, partners, directors, officers, employees, executors, heirs, representatives, shareholders, trustees, and administrators will not initiate any lawsuit, claim, counterclaim, or any other formal legal or administrative proceeding arising out of or related to the Maximo Issue in any court or tribunal against each other for 120 days plus the notice period identified in Paragraph 3 of this Stipulation.

¹ Named defendant MRO Software, Inc. was acquired by IBM in 2006 and no longer exists as an independent corporate entity and, thus, all references in the Stipulation to "IBM" or "International Business Machines Corp." are sufficient to include the entity previously known as "MRO Software, Inc."

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2 2. If at the end of the 120 day cooling off period the dispute is not resolved, any
3 claims or counterclaims arising out of or related to the Maximo Issue
4 shall be filed in this Court.

5 3. Wynn will provide IBM at least 14 days notice prior to filing any claims arising out
6 of or related to the Maximo Issue. To reflect the current status quo, IBM agrees to provide Wynn
7 at least 21 days notice prior to filing any claims arising out of or related to the Maximo issue.
8 Both parties agree that neither shall be entitled to give such notice before the end of the 120 day
9 period, *i.e.*, the earliest Wynn may file any such claim is on the 135th day after the date of this
10 Stipulation and the earliest IBM may file any such claim is on the 142nd day after the date of this
11 Stipulation.

12 4. The statute of limitations on any and all claims, counterclaims, crossclaims, or
13 defenses, in law or equity, available to any party as of the date of this Stipulation arising out of or
14 related to the Maximo Issue is tolled for 142 days from the date of this stipulation. By filing this
15 Stipulation, none of the parties is waiving or otherwise impairing by estoppel or any other means
16 any right or ability to raise any claims or defenses available to it for the periods prior to date of
17 this Stipulation and after 142 days but prior to initiating any legal action.

18 5. The parties agree that this Court retains jurisdiction for the purpose of enforcing or
19 modifying this stipulation. Any dispute that a party has breached this stipulation shall be heard by
20 this Court alone, and any party determined to be in breach of this stipulation shall be required to
21 pay the attorney's fees and costs of the other party reasonably spent seeking to enforce this
22 stipulation.

23 6. The individuals signing below warrant and represent they have the authority to sign
24 this stipulation on behalf of the indicated parties.
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2 DATED: July 16, 2010

3 PISANELLI BICE, PLLC

4
5 By: 

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16 Attorneys for Plaintiff
17 WYNN LAS VEGAS, LLC d/b/a WYNN LAS VEGAS

18
19 DATED: July 15, 2010

20 By: 

21 R. Tulloss Delk
22 IBM Corporate Litigation
23 Senior Attorney
24 White Plains, NY

25 Attorneys for Defendant
26 INTERNATIONAL BUSINESS MACHINES CORP.

27 ORDER

28 IT IS SO ORDERED.

DATED: 07/21/2010


UNITED STATES DISTRICT JUDGE

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